

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

STATE OF NEW MEXICO, *ex rel.*
State Engineer

Plaintiff,

vs.

ROMAN ARAGON, *et al.*,

Defendants.

69cv07941-MV/LFG

RIO CHAMA STREAM SYSTEM

Section 7, Village of Chama

**MOTION FOR APPROVAL OF PROPOSED SCHEDULING AND
PROCEDURAL ORDER FOR DETERMINATION OF PRIORITY DATES
AND IRRIGATION WATER REQUIREMENTS IN THE
VILLAGE OF CHAMA SUBSECTION OF SECTION 7
OF THE RIO CHAMA STREAM SYSTEM**

The plaintiff State of New Mexico, *ex rel.* State Engineer, (State) respectfully request the Court to enter its Order approving: (1) the proposed *Scheduling and Procedural Order for Determination of Priority Dates and Irrigation Water Requirements in the Village of Chama Subsection of Section 7 of the Rio Chama Stream System*, (2) the form of *Notice and Order to Show Cause* ("Notice") to be served on individual defendants in the Village of Chama Subsection ("Chama Village Subsection"), and (3) the form of *Notice* to be published in the *Rio Grande Sun*. In support of this Motion plaintiff states the following:

1. Under the November 19, 2002, procedural order for the adjudication of surface water irrigation rights in Section 7, the adjudication of priority dates and irrigation water requirements will be initiated by the State following the completion of individual subfile activity. The adjudication of the elements of water rights in individual subfiles in the Chama Village Subsection for irrigation water use

is now complete with the exception of the determination of priority dates and irrigation water requirements.

2. The State proposes the determination of the priority dates and irrigation water requirements for surface and groundwater irrigation rights in the Chama Village Subsection as described in the proposed *Scheduling and Procedural Order for Determination of Priority Dates and Irrigation Water Requirements in the Village of Chama Subsection of Section 7 of the Rio Chama Stream System* attached hereto as Exhibit 1. The proposed form of *Notice* be served on individual defendants in the Village of Chama Subsection, and the proposed *Notice* to be published in the *Rio Grande Sun* are attached hereto as Exhibits 2 and 3.

3. The proposed show cause proceedings in the Chama Village Subsection are modeled on the process used in the determination of priority dates and irrigation water requirements in Section 5. See *Scheduling and Procedural Order for Determination of Priority Dates and Irrigation Water Requirements in the Rio Gallina Section of the Rio Chama Stream System* filed August 8, 2007 (Doc. No. 8752). There is a minor change in the proposed form of the *Notice* to be served on individual defendants. In the past, the Court has signed and filed an individually addressed *Notice* for service on individual defendants. The *Notice* included a subfile number and named a ditch that was associated with that defendant's water rights. The State now requests that the Court approve and file a single generic form of *Notice* to be served on all defendants in the Chama Village Subsection. The State believes that an individually generated *Notice* is unnecessary. The individual notices must be prepared by the State, approved and filed by the Court, then downloaded by the State and mailed to each of the defendants named. The process is quite cumbersome and time consuming for both the Court and the State. The State believes that a single generic form of *Notice* for individual service is reasonably

calculated to advise the defendants of the State's proposals and satisfies any requirements of due process. A list of named defendants in the Chama Village Subsection will still be included in the proposed *Notice* for publication.

WHEREFORE, the State of New Mexico respectfully requests that the Court approve the proposed *Scheduling and Procedural Order for Determination of Priority Dates and Irrigation Water Requirements in the Village of Chama Subsection of Section 7 of the Rio Chama Stream System* attached hereto as Exhibit 1, and the proposed form of *Notice* to be served on individual defendants and form of *Notice* for publication in the *Rio Grande Sun* attached hereto as Exhibits 2 and 3.

Respectfully submitted,

/s/ Ed Newville
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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 2nd day of May, 2013, I filed the foregoing electronically through the CM/ECF system which caused the parties on the electronic service list, as more fully set forth in the Notice of Electronic Filing, to be served via electronic mail.

/s/ Ed Newville
EDWARD G. NEWVILLE